

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA : Crim. No. 1:10-cr-0167

v.

FERNANDO ANTONIO AMATO : Judge Sylvia H. Rambo

MEMORANDUM

Before the court is Defendant Amato's motion entitled, "New Grounds Base[d] on Amendment 782 and 788 To the Guideline Manual for a Reduction of Sentence Pursuant to 18 U.S.C. § 3582(c)(2)." (Doc. 673.) Amato previously filed for relief under Amendment 782 (Doc. 664), which was denied on August 27, 2015 (Doc. 671). The basis for the denial is that Amato was sentenced to the statutory mandatory minimum of 120 months. Amendment 782 cannot lower the applicable guideline range due to the operation of U.S.S.G. § 561.1(c)(2).

In his new petition, Amato claims some courts have held that applying the restriction of U.S.S.G. § 561.1(c)(2) was a denial of due process. Unfortunately, all of the citations he includes are improper or erroneous, and this court is unable to check those cases.

The motion will be denied for the following reasons. The motion amounts to a motion for reconsideration. Amato has had more than two months to

request a reconsideration. Furthermore, he repeats arguments that were previously presented as to the mandatory minimum restriction.

He also argues that his sentence should be reduced for errors in his pre-sentence report that increased his sentence. He was sentenced on February 9, 2012. He took no appeal of that sentence. All of the objections to the presentence report that he now raises could have been raised on appeal. It is untimely to raise these issues through the present motion.

The motion (Doc. 673) will be denied.

s/Sylvia H. Rambo

United States District Judge

Dated: November 9, 2015